

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
CASE NO. 1:14-CV-954**

STUDENTS FOR FAIR ADMISSIONS,)	
INC.,)	
)	
Plaintiffs,)	
)	JOINT MOTION REGARDING
v.)	CERTAIN PRE-TRIAL ISSUES
)	AND REQUEST TO ADJUST
THE UNIVERSITY OF NORTH)	CERTAIN BRIEFING DEADLINES
CAROLINA AT CHAPEL HILL, et al.,)	
)	
Defendants.)	
)	
)	

Plaintiff Students for Fair Admissions, Inc. and Defendants The University of North Carolina at Chapel Hill, et al., respectfully make this joint motion with respect to certain pre-trial matters, which Intervenor-Defendants also join. First, the parties intend to resolve Count III via a stipulated judgment that preserves SFFA’s right to present that claim on appeal. Second, the parties respectfully request that the deadline for the parties’ trial briefs, along with proposed findings of fact and conclusions of law, be adjourned until after trial.

In 2019, SFFA and the University each moved for summary judgment. On September 30, 2019, the Court denied those motions (Dkt. 190 (the “Order”)) and, shortly thereafter, set the case for a May 2020 bench trial (Dkt. 194). Since that time, the parties have sought to streamline the evidence that will need to be presented live at trial, including, for example, through cooperative discussions to identify those witnesses who

must testify in court and specific facts to which the parties might be able to stipulate. Consistent with these efforts to respect and conserve the resources of the Court, the parties wish to resolve Count III of the Complaint in advance of trial. In Count III, SFFA seeks a ruling “that any use of race as a factor in UNC’s admissions decisions violates federal law.” (Order at 25). This Court is foreclosed by precedent from entering such a ruling. And as the Court previously noted, neither party advanced specific arguments with respect to Count III at summary judgment. (Id.) This is because the resolution of Count III does not and will not turn upon any factual evidence. Thus, the parties request the Court’s guidance on the most expeditious manner to effectuate a judgment on Count III that preserves SFFA’s right of appellate review.¹

For similar reasons of efficiency and to provide useful assistance to the Court, the parties respectfully request that the submission of trial briefs, along with proposed findings of fact and conclusions of law, be deferred until 45 days from the receipt of the official transcripts of the bench trial rather than the current deadline of April 20, 2020. (Dkt. 194) The parties respectfully submit that any pre-trial briefing is likely to echo or restate the arguments made in their (lengthy) cross motions for summary judgment. As evidenced by the Court’s detailed and carefully considered Order, the Court is well aware of the parties’ arguments and pre-trial record, and thus, the parties believe that additional pre-trial briefing is unlikely to aid the Court’s consideration of the issues ahead of trial. Conversely, the parties anticipate that post-trial submissions will materially aid the

¹ Any appeal will proceed only after a final resolution of all claims.

Court's consideration of the evidence, including by directing the Court to specific trial testimony and exhibits and by analyzing this admitted trial evidence within the context of the legal framework. Thus, the parties respectfully request that the Court enter an order adjourning the current deadline for trial briefs and proposed finding of facts and conclusions of law to 45 days following the receipt of trial transcripts with opposition briefs due 30 days thereafter.

Respectfully submitted this 23rd day of March, 2020.

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<p><u>/s/ Reed N. Colfax</u> Reed N. Colfax* RELMAN & COLFAX PLLC 1225 19th Street NW, Suite 600 Washington, DC 20036 rcolfax@relmanlaw.com Tel: (202) 728-1888</p> <p><u>/s/ Jon M. Greenbaum</u> Jon M. Greenbaum* David Hinojosa* Genevieve B. Torres* LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW 1401 New York Avenue NW, Suite 400 Washington, DC 20005 jgreenbaum@lawyerscommittee.org gbonadies@lawyerscommittee.org Tel: (202) 662-8600</p> <p>*Special Appearance</p>	<p><i>Attorneys for Plaintiff</i></p> <p><u>/s/ Jack Holtzman</u> Jack Holtzman, N.C. Bar No. 13548 Emily P. Turner, N.C. Bar No. 49578 NORTH CAROLINA JUSTICE CENTER 224 South Dawson Street Raleigh, NC 27601 jack@ncjustice.org emilyt@ncjustice.org Tel: (919) 856-2165</p> <p><i>Attorneys for Defendant-Intervenors</i></p>

CERTIFICATE OF SERVICE

I hereby certify that on March 23, 2020, I filed a true and correct copy of the foregoing JOINT MOTION REGARDING CERTAIN PRE-TRIAL ISSUES AND REQUEST TO ADJUST CERTAIN BRIEFING DEADLINES with the Clerk of Court using the CM/ECF system.

This 23rd day of March, 2020.

/s/ Patrick Fitzgerald
Patrick Fitzgerald